

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

XODUS MEDICAL, INC., ALESSIO
PIGAZZI and GLENN KEILAR,

Plaintiffs,

v.

THE SOULE CO., d/b/a Soule
Medical,

Defendant.

Civil Action

No. _____

JURY TRIAL DEMANDED

Electronically Filed

COMPLAINT

Plaintiffs Xodus Medical Inc., Alessio Pigazzi, and Glenn Keilar (collectively “Plaintiffs”), by and through their undersigned counsel, hereby allege the following for their Complaint against Defendant The Soule Co., d/b/a Soule Medical.

THE PARTIES

1. Plaintiff Xodus Medical Inc. (“Xodus”) is a Pennsylvania corporation having a principal place of business at 702 Prominence Drive, New Kensington, Pennsylvania 15068.

2. Plaintiff Alessio Pigazzi is an individual with a place of residence at 517 Euclid Street, Santa Monica, California 90402.

3. Plaintiff Glenn Keilar is an individual with a place of residence at 25351 Campina Drive, Mission Viejo, California 92691.

4. Upon information and belief, Defendant The Soule Co., d/b/a Soule Medical (“Soule” or “Defendant”) is a Florida Corporation having a principal place of business at 4322 Pet Lane, Lutz, Florida 33559.

JURISDICTION AND VENUE

5. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over Soule because Soule has committed, and continues to commit, acts of infringement in this district.

8. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because Soule has committed acts of infringement in this district.

FACTS

9. On August 20, 2013, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 8,511,314 (“the ’314 patent”).

10. Alessio Pigazzi and Glenn Keilar are the owners of all right, title and, interest to the ’314 patent.

11. Xodus is the exclusive licensee of the ’314 patent. A true and correct copy of the ’314 patent is attached hereto as Exhibit A, and is incorporated by reference as if fully restated herein.

12. Soule manufactures, markets, and sells the following Trendelenburg positioners that infringe one or more claims of the ’314 patent:

TP 2000; TP 2001; TP 2002; TP 2003; TP 2000E-S; TP 2001E-S; TP 2000-D; TP 2001-D; TP 2002-D; TP 2003-D; TP 2000E-S-D; and TP 2001E-S-D.

COUNT I

(INFRINGEMENT OF THE '314 PATENT)

13. Plaintiffs incorporate by reference herein the averments set forth in paragraphs 1 – 12 hereof as if set forth herein in their entirety.

14. Soule has and continues to infringe at least one claim of the '314 patent by manufacturing, selling, and/or offering to sell the above-recited Trendelenburg positioners under 35 U.S.C. § 271. Soule is directly infringing, contributorily infringing, and/or inducing the infringement of the '314 patent. Soule will continue to infringe the '314 patent unless enjoined by this Court.

15. Soule's activities in infringing the '314 patent are willful and wanton, constituting willful infringement of such United States Patent under 35 U.S.C. § 285.

16. Plaintiffs have been irreparably damaged and will continue to be irreparably damaged by reason of Defendant's infringement of the '314 patent unless this Court restrains the infringing acts of Defendant. Plaintiffs are without an adequate remedy at law.

WHEREFORE, Plaintiffs pray:

A. that Soule, its officers, employees, agents, and those persons in active participation with them be permanently enjoined from infringing the claims of United States Patent No. 8,511,314;

B. that a decree be entered adjudging that Soule has infringed the claims of United States Patent No. 8,511,314 and that such infringement was willful;

C. that Soule be ordered to pay damages to Plaintiffs pursuant to 35 U.S.C. § 284, including interest from the dates of infringement, resulting from Soule's infringement of United States Patent No. 8,511,314;

D. that Soule be ordered to pay to Plaintiffs treble damages pursuant to 35 U.S.C. § 284, resulting from Soule's willful infringement of United States Patent No. 8,511,314;

E. that Plaintiffs be awarded their costs of this action and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285; and

F. that Plaintiffs be awarded such further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs hereby demand a trial by jury for all issues triable by a jury.

Respectfully submitted,

THE WEBB LAW

Dated: May 10, 2017

s/Kent E. Baldauf, Jr.

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